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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/620,912	07/15/2003	Chaz Immendorf	NET-007 US	8939
23639	7590	12/28/2005	EXAMINER	
BINGHAM, MCCUTCHEN LLP THREE EMBARCADERO CENTER 18 FLOOR SAN FRANCISCO, CA 94111-4067			DOAN, PHUOC HUU	
			ART UNIT	PAPER NUMBER
			2687	

DATE MAILED: 12/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/620,912

Applicant(s)

IMMENDORF ET AL.

Examiner

PHUOC H. DOAN

Art Unit

2687

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,4-7,14,15,22,23,26,36,37 and 43-71 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

- 5) ☒ Claim(s) 22,23,26,36,37 and 49-72 is/are allowed.

- 6) ☒ Claim(s) 1, 4-7, 14-15, and 43-48 is/are rejected.

- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.

- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All b) ☐ Some \* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/09/2005 has been entered.

### ***Response to Arguments***

2. Applicant's arguments with respect to claims 1, 4-7, 14-15, 22-23, 26, 36-37, and 43-71 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 4-7, 14-15, and 43-48 are rejected under 35 U.S.C. 102(e) as being anticipated by **Bourlas (US Patent No: 6,577,863)**.

As to claim 1, Bourlas discloses a method of supporting voice-band modem-to-modem calls in a wireless communication system (See Abstract), the method comprising: detecting a call from a first modem **“(MIC) modem interface card”** to a second modem over a wireless voice channel (col. 3, lines 41-65); establishing a connection with the first modem in response to the detected modem call (col. 6, lines 15-35); receiving data from the first modem over the connection (col. 6, lines 15-25); demodulating the received data (col. 6, lines 25-27); and relaying **“base station”** the demodulated data from a near end of the wireless broadband channel to a far end of the wireless broadband channel (col. 8, lines 5-13 **“wireless broadband connection between a base station and customer sites, the networks infrastructure of the wireless broadband, and hardware component; including cable; microwave link which indicated in Fig. 1, 2”**).

As to claim 4, Bourlas further discloses comprising: receiving the relayed data at the far end of the wireless broadband channel (Fig. 1, items 104, 112); modulating the received data (col. 6, 25-27); establishing a connection with the second modem **“(plurality of modems installed in customers site, and plurality of modem**

**installed in base station site**", lines 6, lines 15-30); and transmitting the modulated data to the second modem via the connection (lines 6, lines 15-30).

**As to claim 5**, Bourlas further discloses all the limitation in col. 9, lines 22-55, **"Fault Messages is a method to detect the failure of any modem in communication "**.

**As to claim 6**, Bourlas further discloses wherein the wireless broadband channel is not used for voice calls (col. 3, lines 52-55).

**As to claim 7**, Bourlas further discloses all the limitation in col. 1, lines 15-45 **"the functional of voice/data communication, the circuit switch is means for used voice channel, and packet switched is used for data channel"**.

**As to claim 14**, Bourlas further discloses wherein detecting the modem call comprises detecting tones (col. 6, lines 30-40)

**As to claim 15**, Bourlas further discloses all the limitations in col. 6, lines 15-30.

**As to claim 43**, Bourlas further discloses the method of claim 1 further comprising terminating the modem call over the wireless voice channel prior to establishing the connection between the near end of the wireless broadband channel and the first modem (col. 7, lines 15-35).

**As to claim 44**, Bourlas further discloses the method of claim 1 wherein the wireless broadband channel is located between the first modem and second modem

(col. 3, lines 41-65 “**CPE 110 communicates with the base station 104 over a wireless links**”.

**As to claim 45**, Bourlas further discloses the method of claim 1 wherein the wireless voice channel is dedicated to the modem call (col. 4, lines 15-35).

**As to claim 46**, Bourlas further discloses the method of claim 1 wherein the connection is established between the near end of the wireless broadband channel and the first modem (col. 3, lines 55-65).

**As to claim 47**, Bourlas further discloses the method of claim 1 wherein the modem call is detected at a near end of the wireless voice channel (col. 4, lines 40-50).

**As to claim 48**, Bourlas further discloses the method of claim 1 wherein the modem call is detected at a far end of the wireless voice channel (col. 6, lines 30-45).

***Allowable Subject Matter***

5. Claims **22-23, 26, 36-37, and 49-72** are allowed.

As to claim **22, 50, 65**, the prior art or record in alone or combination do not disclose a wireless communication system comprising: a wireless voice channel having a near end and a far end; a wireless broadband channel having the same near end and the same far end as the wireless voice channel; a first modem linked

to the near end of the wireless voice and broadband channel; a second modem linked to the far end of the wireless voice and broadband channels; a processor configured for determining a data transfer rate of a modem call from the first modem to the second modem over the wireless voice channel, and comparing the data transfer rate to a wireless voice channel; a third modem located at the near end of the wireless voice and broadband channels and configured for establishing a connection with the first modem, receiving data from the first modem over the connection, and demodulating the received data if the data transfer rate is greater than the bandwidth of the wireless voice channel; and a first radio unit located at the near end of the wireless voice and broadband channels and configured for relaying the demodulated data over the wireless broadband channel if the data transfer rate is greater than the bandwidth of the wireless voice channel.

Dependent claims 23, 26, 36-37, 49, 51-64, and 66-72 are allowed in dependent on parent claim.

### *Conclusion*

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

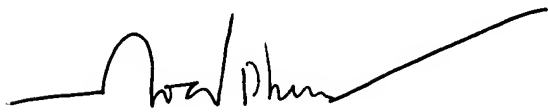
Sunder (US Pub No: 2003/0182556) discloses “**Method and system to secure a connection application for distribution to multiple end-users**”.

Bright (US Pub No: 2004/0209614) discloses **“Automated exchange of broadband communication addresses over a non-broadband channel in a wireless telecommunication system”**.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PHUOC H. DOAN whose telephone number is 571-272-7920. The examiner can normally be reached on 9:30 AM - 6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, LESTER G. KINCAID can be reached on 571-272-7922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Phuoc Doan  
12/21/05

  
12/22/05  
LESTER G. KINCAID  
SUPERVISORY PRIMARY EXAMINER